

THE KHYBER PAKHTUNKHWA REPRODUCTIVE HEALTHCARE RIGHTS

ACT, 2020

(KHYBER PAKHTUNKHWA ACT NO. XXVIII of 2020)

CONTENTS

PREAMBLE

SECTIONS

Short title, extent and commencement.

Definitions.

Powers and functions of the Department.

Department to oversee.

Prohibited practices.

Information and educational materials.

Functions of the reproductive health care facility and service provider.

Appointment of Inspectors.

Quality Assurance.

Investigation and filing of case.

Obtaining and cancellation of registration of organization or an institution in private sector.

Penalties.

Jurisdiction of the Court.

Appeal.

Removal of difficulty.

Overriding effect.

Power to make rules.

Page -1-

THE KHYBER PAKHTUNKHWA REPRODUCTIVE HEALTHCARE RIGHTS
ACT, 2020

(KHYBER PAKHTUNKHWA ACT NO. XXVIII of 2020)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.
(Extraordinary), dated the 12th August, 2020).

AN
ACT

to provide reproductive healthcare and promote reproductive health rights in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to recognize and promote reproductive health care rights and provide reproductive healthcare in accordance with the Constitution of Islamic Republic of Pakistan and International Commitments made by the Government of Pakistan.

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Reproductive Healthcare Rights Act, 2020.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions. ---In this Act, unless there is anything repugnant in the subject or context, the following expressions shall have the meaning hereby assigned to it, that is to say,-

(a) "Department" means the Population Welfare Department of Government;

(b) "designated product" means a product used in provision of family planning and reproductive health services;

(bb) "Discrimination" means any exclusion, restriction or arbitrary distinction, made on the basis of sex having effect or purpose of impairing or nullifying the recognition of exercise by women & men, irrespective of marital status, in the political, economic, social, cultural, civil or any other field;

(c) "Government" means the Government of the Khyber Pakhtunkhwa;

(d) "reproductive health" means a state of complete physical, mental and social wellbeing, and not merely the absence of disease and infirmity, in all matters relating to the reproductive system, its functions and processes;

(e) "reproductive health care facility" means the facility providing reproductive health and family planning services such as family welfare

(f)

(g)

(h)

(i)

G)

(k)

centers, reproductive health service centres, mobile service units and any other service outlets introduced by Population Welfare Department, reproductive health service outlets of private sector and NGOs including franchised outlets;

“reproductive health care providers” mean public and private institutions and an individual certified from the recognized institute which offer reproductive health care services;

“reproductive rights” mean the right of couples to reach the highest level of reproductive health without discrimination, coercion and violence;

“choice” means a voluntary choice or decision, based on the knowledge of all available information relevant to the choice or decision and know how to use the chosen method safely and effectively, as well as understanding possible side-effects;

“prescribed” means prescribed by rules;

“Province” means the Province of the Khyber Pakhtunkhwa; and

“rules” mean the rules made under this Act.

Powers and functions of the Department.---Department shall-

(a) provide reproductive healthcare information, which provides awareness regarding the mental and physical health and wellbeing of individuals and families and allows service users to make all decisions on the basis of full free and informed consent;

(b) raise public awareness on the prevalence and impact of morbidity and mortality and availability of medical science to prevent this

suffering;

(c) ensure through its workers that parents have a right to freely and responsibly decide the number, spacing and timing of their children;

(d) ensure that no person shall be discriminated against in their reproductive lives, in their access to services and information on the grounds of race, color, sex, creed or any other criteria of discrimination;

(e) promote that all women have the right to protect from discrimination in social, domestic or employment spheres by

reasons of pregnancies or motherhood;

(f) ensure elimination of all discrimination against women in health care services so that equality of services are possible for both men

Page -3-

(g)

(h)

(i)

G)

(k)

)

(m)

(n)

(o)

(p)

(q)

()

and women (including those related to family planning) thus all men and women shall have the right to information and services;

protect women from being discriminated on the base of the 'gender of baby' or not being able to have pregnancy for any reasons;

provide quality family planning services through a range of method mix that includes short acting, long acting and permanent methods including new methods based on informed choice and that the facilities are visible to the communities through better promotion and branding;

reach the underserved by increasing access to the disadvantaged, hard to reach, and vulnerable including poor women and remote marginalized areas by strengthening community-based reproductive health services in addition to other responsibilities;

provide full range of family planning services including Mother Child Health to prevent maternal mortality and morbidity;

impart training to service provider to be gender sensitive and reflect user's perspective to the right to privacy and confidentiality;

ensure access and affordability of services at the grass root level;

provide reproductive health family planning service providers and workers with detailed scope of work to be revised from time to time according to the modern practices and technologies;

broaden the scope of Family Planning reproductive health services to various geographical areas, the task shifting mode may be

adopted so that mid and lower level workers are involved in provision of services where these are needed but due to lack of human resource are difficult to provide;

safeguard that no person shall be subject to medical trials related to reproductive healthcare without their full, free, informed and written consent;

take stringent measures to prevent the testing and dumping of harmful contraceptives and pharmaceutical in the Province, whether by domestic entities, or multinational corporation;

oversee that no person shall be subjected to forced pregnancy, sterilization, abortion or birth control;

ensure provision of contraceptive commodities are available at reproductive health care facility level and with community-based workers;

Page -4-

(s)

()

(u)

(v)

(w)

(x)

(y)

(2)

receive complaints by any person of violations of the provisions of this Act or the rules;

initiate investigation of cases against reproductive healthcare facility and service providers found to be violating the provisions of this Act or the rules;

plan for and co-ordinate the dissemination of informative and educational materials on reproductive health care and rights and recommend to Government for educational courses for service provider;

frame policies for the promotion and protection of families and matters relating to reproductive health of mothers and its negative impact on children;

monitor service statistics to ensure that unmet need for family planning is reduced;

ensure that all men and women receive information that leads to harmonious marital relations and optimal health and wellbeing of the families in accordance with appropriate social and cultural norms;

include reproductive health education in the curriculum in the secondary and higher secondary level as life skill as a basic education need for all adolescents so that they are well equipped with the necessary biological as well as the physiological changes that they undergo. Life skill are abilities for adaptive and positive behavior that enables individuals to deal effectively with the demands and challenges of everyday life; and

perform any other function as may be assigned to it by Government.

4. Department to oversee.---(1) Department shall be responsible for oversight of this Act and shall give effect to the provisions herein through all concerned public sector organizations

and also through public, civil society organization, private partnership and private organizations.

(2) Department shall evaluate public policies and programs to effectively promote reproductive rights and health, especially reduction of maternal mortality morbidity and prenatal mortality.

(3) The following three tiers of action may be taken with and through institutions of civil society-:

(i) building support and sustainability through strong policies and programmes;

Page -5-

(ii) providing quality services which are accessible; and
(iii) increasing community awareness and involvement of community groups.

(4) Department shall in collaboration with the media and private sector, work on operationalization, implementation and enforcement of this Act, specifically the promotion of the right to reproductive healthcare information and communication activities, and to provide reproductive health services to meet the needs of women and men throughout the reproductive life cycle.

(5) Department may promote and ensure advocacy to create an enabling environment to address the issues of reproductive health, by including these issues in policy dialogue.

5. Prohibited practices.---No person and organization shall be allowed to provide, advertise or market family planning or reproductive health services that are not based on sound scientific evidence and established medical practices.

6. Information and educational materials.---(1) Any department or organization which produces or distributes any informational and educational materials referred to, shall submit copies thereof to the Department in a manner as may be prescribed.

(2) Informational and educational materials, whether written, audio or visual, pertaining to Family Planning and reproductive health, shall contain only correct information related to promoting Family Planning and reproductive health in accordance with the couple's needs and aspirations.

(3) Department shall, arrange for and approve the dissemination of objective and consistent informational and educational materials on Family Planning and reproductive health, excluding medical literature and may, by notification in the official Gazette, publish such instructions, guidelines or policies as it deems fit and appropriate, for the purposes of producing and distributing informational and educational materials.

7. Functions of the reproductive health care facility and service provider.---The reproductive health care facility and service provider shall -

(a) encourage, support and protect family planning and reproductive healthcare and rights; and

(b) exhibit provisions of this Act at all conspicuous parts of healthcare facility

in national or local language.

8. Appointment of Inspectors.---(1) Department may appoint such number of experts for reproductive health issues, as Inspector as it may deem necessary, to conduct inspection and investigation for the purposes of this Act.

(2) The inspector shall-

(a) inspect a designated product in portion or as a whole;

(b) ensure quality standards as described in section 9 of this Act; and

(c) monitor provision of Reproductive Health Rights through on the spot discussion with workers and clients.

9. Quality Assurance.---(1) The Inspector or any other person vested with powers under this Act to test any designated product sold in the Province in order to determine whether it is fit for human consumption or otherwise.

(2) A designated product that does not meet the standard for use in the country of manufacture shall not be sold or distributed in the Province.

(3) A designated product that has reached the expiry date shall not be marketed, sold or distributed.

(4) A designated product shall be sold only in the original container in order to prevent quality deterioration, adulteration or contamination thereof.

10. Investigation and filing of case.---(1) On the report of Inspector or complaint of violation received under the provisions of this Act, the Department shall order an investigation to be conducted in the matter.

(2) The Inspector shall conduct an investigation as directed by the Department in order to ascertain whether a violation of the provisions of this Act has taken place and shall report to the Department within stipulated period of time.

(3) Necessary resources shall be made available by the Department in conducting the necessary investigations under this section.

11. Obtaining and cancellation of registration of organization or an institution in private sector.---(1) Notwithstanding anything contained in any other law for the time being enforce, any organization or institution in private sector provide services in the field of reproductive healthcare shall obtain No Objection Certificate from the Department before its registration in the prescribed manner.

(2) All existing organizations or institutions in private sector working in the field of family planning and reproductive health services shall obtain No Objection Certificate, within sixty days after the commencement of this Act.

(3) In case of non-compliance, the Department shall recommend to the relevant forum in the prescribed manner for cancellation of registration.

12. Penalties.---(1) Where any service provider or health care facility, including a medical practitioner, has been found to have contravened any of the provisions of this Act or the rules with respect to providing information and services, the concerned authority upon written recommendations of the Department, and after giving such person an opportunity of being heard, may recommend to Government to suspend or cancel, his license for the practice of his profession or occupation or for the pursuit of his business.

(2) In the case of a contravention involving a medical practitioner registered under the Medical and Dental Council Ordinance, 1962 (XXXII of 1962), the matter shall be referred to the Pakistan Medical and Dental Council for further action.

(3) Any person or distributor who contravenes any of the provisions of this Act or the rules made thereunder, shall be punishable with imprisonment for a term which may extend to two years, or with fine which shall not be less than fifty thousand and not more than five hundred thousand rupees.

13. Jurisdiction of the Court.---(1) No Court below the Court of 1st Class Magistrate shall take cognizance of any offence punishable under this Act.

(2) An offence punishable under this Act shall be non-cognizable.

14. Appeal. ---(1) Any person sentenced by a Court under this Act may prefer an appeal in the prescribed manner to the Court of Session within thirty days against the decision of the Magistrate and to the High Court against the decision of the Court Session, as the case may be.

(2) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908) and the provisions of the Code of Criminal Procedure, 1898 (Act No. V of 1898) shall be applicable to an appeal preferred under sub-section (1).

15. Removal of difficulty.---If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order publish in the official Gazette, make such provision not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

16. Overriding effect.--- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

17. Power to make rules.--- Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.